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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,133	09/26/2003	Stephen A. Ewald	19645.1	6111

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EXAMINER

SMITH, JEFFREY A

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/672,133

Applicant(s)

EWALD, STEPHEN A.

Examiner

Jeffrey A. Smith

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NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11262003</u> . | 6) <input type="checkbox"/> Other: ____  |

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**DETAILED ACTION**

***Specification***

The disclosure is objected to because of the following informalities:

There are numerous instances in the specification in which the letter "e" has been omitted from the text. For example, see page 4, first line; page 5, lines 1-3; page 8, line 3; claim 14, line 2. Other instances may be present. Applicant is required to locate and correct all instances of the omission.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, and 9-11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In claim 1, line 5: "the receiver" should read as --each receiver-- (since one or more receivers are set forth in line 3). Similar instances of "the broadcast receiver" occur in claims 2, 3, 4, 7, and 8.

In claim 2, line 1: it appears that "the broadcast" should read as --each broadcast receiver--.

In claim 9, last line: "another computer device" introduces a *non sequitur* because no other computer device is previously set forth.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-13, and 15-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Kesling et al. (US 2002/0132575 A1).

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Kesling et al. discloses a method for purchasing goods and services linked with broadcast media (par. 0039 and Figs. 1-3). The method comprises receiving at at least one broadcast receiver a broadcast media including information relating to goods and services that can be purchased by persons receiving the media; selectively recording purchase data at the broadcast receiver for a good and service that a person purchases relating to the broadcast media; sending the purchase data from the broadcast receiver to at least one server; receiving the purchase data at the at least one server; and verifying the purchase data from the broadcast receiver at the at least one server.

Regarding claim 3: the purchase data may be transmitted at a predetermined location (par. 0043).

Regarding claims 5 and 6, respectively: Kesling discloses that the broadcast media may be an advertisement (information about the purchase of a particular good or service) or a song (no information about the purchase of a such song).

Regarding claims 7 and 8, respectively: the broadcast receiver may comprise either a single device (par. 0041) or an "intermediate transfer device" may be additionally employed as a purchase selection device (par. 0042).

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Applicant's attention is directed to the Kesling et al. disclosure regarding "low" and "high" power wireless transmitters (600 and 700, respectively).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kesling et al. (US 2002/0132575 A1) in view of Official Notice regarding secure communication channels.

Kesling et al. does not disclose a secure communication channel. However, it is notoriously well-known to employ secure communication channels when endeavoring to conduct transactions of the type disclosed by Kesling. One of ordinary skill in the art would have modified the Kesling method to have included sending purchase data via a secure channel in order that

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confidential information relative to the customer or the customer's account is not readily intercepted.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Odinak et al. discloses a system and method to associate broadcast radio content with a transaction via an Internet server.

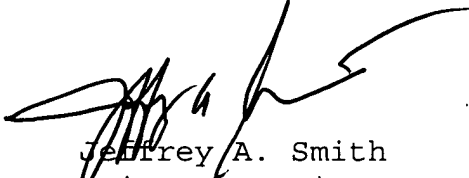
JP 02000322443 A (Toriyama et al.) discloses a receiver having a memory for recording digital information broadcast.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Smith whose telephone number is 703-308-3588. The examiner can normally be reached on M-F 6:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jeffrey A. Smith  
Primary Examiner  
Art Unit 3625

jas